IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.2695 OF 2005

Santosh S. Mhaskar — Petitioner
vs.
Union of India & anr. — Respondents

Mr.Jaiprakash Sawant for the petitioner.

Mr.S.S.Pakale with Mrs.N.V.Masurkar for respondent no.1.

Mr.S.R.Rajguru for respondent no.2.

CORAM : F.I.REBELLO &
ANOOP V. MOHTA,JJ.

DATED : 19th October, 2006

P.C.

Petitioner was in the employment of respondents as a casual labour between June 1985 to December 1988 for 150 days and January 1986 to March 1986 for 75 days. From the communication dated 9.11.2000, it would be clear that further appointment of the petitioner on casual basis was not continued as the policy decision has been taken by the department banning recruitment of casual labourers. Petitioner, it appears, represented by an application of 16.7.1992 after some correspondence. By communication of 5.7.1993 he was informed that his request for reinstatement cannot be acceded to. Petitioner thereafter took up the matter in conciliation on 1.7.2002. Pursuant to failure report, the appropriate Government by communication on 23.6.2003 chose not to make a reference on the ground that dispute has been raised after lapse of 16 years and there was no

justification for the long delay. This is the order which is subject matter of the present petition.

2. Merely delay by itself would not be a ground to reject a reference. However, it would be a relevant consideration for the appropriate Government to take a decision. In the first case, the petitioner was appointed on casual basis in 1985 and 1986 for a short period. The record would indicate that he was not continued in view of the policy decision not to engage casual labourers. He was informed that he cannot be reinstated in the year 1993. In between it appears that his cause was raised by the Member of Parliament to which the department informed the reasons as to why the petitioner could not be reinstated. Petitioner thereafter raised a dispute before the conciliation officer in 2002. Considering the above, we did not think that the order of the appropriate Government to refuse to make a reference suffers from any illegality and/or otherwise is not in terms of section 12(5) of the Industrial Disputes Act, 1947.

3. With the above observation, petition stands disposed of.

(F.I. REBELLO, J.)

(ANOOP V. MOHTA,J.)